

## 183-1-12-.02 Direct Recording Electronic Voting Equipment.

### (1) Definitions.

As used in this rule, the term:

- (a) "Assist", assisted", "assisting", or "assistance" means the act of marking a voter registration application, application for absentee ballot, or ballot on behalf of a voter who is unable to read the English language or has a disability which renders him or her unable to see or mark the voter registration application, application for absentee ballot, or ballot or operate the voting equipment, or to enter the voting compartment or booth unaccompanied, in the manner personally requested and communicated by such voter. This definition will apply equally to Code Sections 21-2-322, 21-2-365, 21-2-379.1, 21-2-384, 21-2-385, 21-2-385.1, 21-2-400, 21-2-402, 21-2-409, 21-2-409.1, 21-2-413, 21-2-456, 21-2-500, 21-2-568, 21-2-579, 21-2-587, 21-2-590, 21-2-591, 21-2-592.
- (b) "Ballot" shall mean the offices, candidates, and questions to be submitted to the voters at a primary, election, or runoff for each county or municipality.
- (c) "Ballot Encoder Device" shall mean the electronic device by which the poll officers program the voter access card to authorize the voter to vote on the DRE units.
- (d) "Ballot Style" shall mean the presentation of the offices, candidates, and questions to be submitted to the voters at a primary, election, or runoff on a DRE unit that contains only the offices and questions for the voters of specified districts within the precinct.
- (e) "Counter" shall mean the registers on each DRE unit which increment by one each time a vote is cast on the unit. The "election counter" is the register which is reset for each election and records the number of ballots voted on a DRE unit in a particular election. The "system counter" is the register which cannot be reset and records the number of ballots voted on a DRE unit over the course of the life of the unit.
- (f) "DRE unit" shall mean a direct recording electronic voting device which is a computer driven unit for casting and counting votes on which a voter casts his or her votes through the use of a touch screen or VWD device. The term shall include both state supplied devices and devices purchased by counties.
- (g) "Early voting period" shall mean that period of time preceding a primary or election in which the board of registrars or absentee ballot clerk shall mail or issue official absentee ballots to all eligible applicants.
- (h) "Enclosed space" shall mean that area within a polling place enclosed with a guardrail or barrier closing the inner portion of such area so that only such persons as are inside such guardrail or barrier can approach within six feet of the ballot box, voting compartments, voting booths, or voting machines.
- (i) "Memory Card" shall mean the electronic card (PCMCIA card) on which the ballot styles for a particular precinct are electronically stored and which is inserted into the direct recording

electronic voting unit (DRE) to program the DRE unit for voting and on which vote totals are recorded for the DRE unit during the voting process.

(j) "Opening of the Polls" shall mean the commencement of voting in a particular primary, election, or runoff. Opening of the polls does not refer to the unlocking or opening of the doors of the polling place. Similarly, the term "Closing of the Polls" shall mean the cessation of voting in a particular primary, election, or runoff and not the locking or closing of the doors of the polling place.

(k) "Supervisor's Card" shall mean the electronic card to be used by the poll manager which is inserted into the DRE unit in order to configure the DRE unit for voting, to test the DRE unit, to terminate or suspend voting on the DRE unit, or to access other utility functions on the DRE unit.

(l) "Voter Access Card" shall mean the electronic card issued to a voter which is inserted into a DRE unit to authorize the voter to cast a ballot on the DRE unit.

(m) "VWD Device" is a device for use by illiterate and/or visually impaired voters in voting on a DRE unit and consists of an audio headset and a keypad by which the ballot can be provided to the voter aurally and the voter can cast his or her vote by use of the keypad.

(n) "Zero Tape" shall mean a tape printed out by the DRE unit which shows that all vote registers in the DRE unit for recording votes for candidates and questions are set to zero and that no votes are present on the unit.

## (2) Receipt, Maintenance, and Storage.

(a) Acceptance tests. Upon the receipt of each new direct recording electronic voting unit (DRE), the election superintendent of the county is responsible to ensure that an acceptance test is performed on the device in accordance with standards issued by the Secretary of State. No DRE unit shall be accepted by the county or placed into service until such time as the unit satisfactorily passes the prescribed acceptance tests.

### (b) Storage of DRE units.

1. The election superintendent of the county shall maintain the DRE units in accordance with the requirements of this rule, the directives of the Secretary of State, and the specifications and requirements of the manufacturer.

2. The DRE units shall be stored in a climate controlled space in which the temperature and humidity levels are maintained at acceptable levels year-round which shall not be lower than 5 degrees Celsius (41 degrees Fahrenheit) nor higher than 40 degrees Celsius (104 degrees Fahrenheit) and not lower than 35 percent relative humidity and not higher than 85 percent relative humidity such that no condensation forms on such units. The units shall not be stored in an area in which liquids or fluids stand, pool, or accumulate at any time or in areas that are subject to such standing, pooling, or accumulating liquids or fluids. The space in which the units are stored shall be secured and shall be accessible only to persons authorized by the election superintendent to have access to such units or such space. The DRE units may be stacked atop

each other but no more than five units may be in a stack unless a rack system has been constructed for the storage of the units. The election superintendent shall ensure that the batteries in each unit are charged at least quarterly in accordance with the manufacturer's specifications.

3. The storage areas for DRE units shall be equipped with one or more of the following forms of electronic surveillance and protection: keypads or electronic locks, motion detectors, video surveillance, or a security system that is connected to an outside monitoring source, such as the police department or fire department. In lieu of providing electronic surveillance and protection, the DRE units may be interlocked through the use of a cable or chain that is secured by a padlock or other type of locking system.

4. The election superintendent shall maintain numbered seals on all DRE units in storage and all seal numbers shall be recorded and on file in the office of the election superintendent.

5. Upon delivery to a polling place in preparation for a primary, election, or runoff, the DRE units shall be secured and protected from unauthorized access by storing the DRE units in a locked and secure room at the polling place, having the person taking possession of the units personally supervise the units at all times prior to the opening of the polls, or by interlocking the DRE units with a cable or chain that is secured by a padlock or other type of locking system.

6. The expenses for the implementation of the storage and security requirements of this rule shall be the responsibility of the county or municipal governing authority, as applicable, unless such security features are provided by the state.

(c) Software security. The software contained in each DRE unit, regardless of whether the unit is owned by the county or the state, and the software used to program the unit and to tabulate and consolidate election results shall not be modified, upgraded, or changed in any way without the specific approval of the Secretary of State. No other software shall be loaded onto or maintained or used on computers on which the GEMS software is located except as specifically authorized by the Secretary of State.

(d) Maintenance of DRE units. After the end of the initial warranty period for state owned DRE units and computers for use in programming the DRE units and tabulating and consolidating the vote totals, the county shall be responsible for the maintenance and upkeep of such devices, including the repair and/or replacement of any devices which are destroyed, damaged, or otherwise rendered incapable of use in elections.

(e) Access to GEMS servers.

1. The room in which the GEMS server is located shall be locked at all times when the server is not directly under the supervision of the election superintendent or the election superintendent's designee. Lock and key access to the room where the GEMS server is located shall be limited to the county election superintendent; members of the county board of elections; the election supervisor, if any; personnel of the county election superintendent's office designated by the county election superintendent; building maintenance personnel; and emergency personnel. Building maintenance personnel shall have access to the room in which the GEMS server is located only to the extent necessary to carry out their maintenance duties. The election

superintendent shall maintain on file at all times in the office of the election superintendent a complete and up to date list of all maintenance personnel with access to the room in which the GEMS server is located. Emergency personnel shall have access to the room in which the GEMS server is located only as necessary in the event of an emergency and only for the duration of such emergency condition.

2. The GEMS server shall remain locked at all times when not in use. The key or keys to the GEMS server shall remain in the possession of the election superintendent or the designee of the election superintendent at all times.

(f) Security of DRE units and accessories. All DRE units, optical scanner devices, voter access cards, supervisor cards, memory cards, DRE unit keys, voting system software, and encoders shall be stored under lock and key at all times when not in use. Lock and key access to such items shall be limited to the county election superintendent; members of the county board of elections; the election supervisor, if any; personnel of the county election superintendent's office designated by the county election superintendent; building maintenance personnel; and emergency personnel. Building maintenance personnel shall have access to the area where such items are stored only to the extent necessary to carry out their maintenance duties. The election superintendent shall maintain on file at all times in the office of the election superintendent a complete and up to date list of all maintenance personnel with access to the area in which such items are stored. Emergency personnel shall have access to the area where such items are stored only as necessary in the event of an emergency and only for the duration of such emergency condition. Whenever maintenance or emergency personnel are required to enter the storage area, the election superintendent must be notified of that entry within 24 hours and the election superintendent must maintain a log of those persons who entered the storage area.

(g) Voting system handling requirements.

1. All personnel, with the exception of the permanent employees of the Office of the Secretary of State and permanent employees of the county or municipal election superintendent, who prepare voting equipment for use in a primary, election, or runoff shall complete an oath of custodian before each election. One copy of the oath shall be placed on file in the office of the election superintendent and an additional copy shall be filed with the records for the election filed with the clerk of superior court or the municipal clerk, as appropriate. The oath of custodian shall be in the following form:

STATE OF GEORGIA

COUNTY/MUNICIPALITY OF \_\_\_\_\_

OATH OF CUSTODIANS AND DEPUTY CUSTODIANS

OF DRE UNITS

I, \_\_\_\_\_, do swear (or affirm) that I will as a (deputy) custodian of the voting systems for the County/Municipality of \_\_\_\_\_, faithfully perform all of my duties in accordance with state law; that I will prepare in accordance with all applicable rules and regulations governing the use of the voting system all DRE units to be used

in primaries, elections, and runoffs in this county/municipality; that I will use my best endeavors to prevent any fraud, deceit, or abuse in carrying out my duties while preparing the DRE units for use in primaries, elections, and runoffs; and that I am not disqualified by law to hold the position of (deputy) custodian.

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(Deputy) Custodian

Administered by, sworn to,

and subscribed before me,

this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

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Superintendent

(Required by O.C.G.A. Section 21 2 379.6(b))

2. All DRE units and accessories that are removed from storage for educational or training purposes must be signed in and out on an equipment log maintained by the election superintendent. The log shall contain, at a minimum, a description of the item being checked out, including any serial number or identifying number; the date and time when the item is checked out; the name of the person checking out the item; and the date and time when the item is returned to storage. The items checked out of storage shall remain in the custody and control of the person checking out the items at all times and the person checking out the items shall personally return such items. Each person who utilizes equipment for educational or training purposes must be adequately trained in the use of the equipment prior to the release of the equipment into such person's custody.

3. The GEMS server shall not be moved or relocated for educational or training purposes. Should it become necessary to relocate the GEMS server or any of its components from one facility to another, the election superintendent shall notify the Secretary of State in writing of the reason for the relocation and the proposed new location. Under no circumstances shall the GEMS server or any of its components be relocated unless and until written authorization for the relocation is received from the Secretary of State except in the event of an emergency situation beyond the control of the election superintendent.

4. The poll manager shall sign a receipt for all supervisor cards, encoders, voter access cards, memory cards, and DRE unit keys assigned to such poll manager's precinct. Upon returning election supplies to the election superintendent's office following the close of the polls, the poll manager shall account for all such items and shall certify that all such items have been returned or shall describe any missing items and explain why such items have not been returned. The Secretary of State shall prepare and provide a chain of custody sheet for this purpose.

5. All supervisor cards, encoders, voter access cards, memory cards, DRE unit keys, and other equipment assigned to designated county election technicians shall be accounted for on the night of a primary, election, or runoff and shall be returned to storage. Each technician shall sign a receipt for all such items issued to such technician and, upon returning such items to the election superintendent's office following the close of the polls, the technician shall account for all such items and shall certify that all such items have been returned or shall describe any missing items and explain why such items have not been returned. The Secretary of State shall prepare and provide a chain of custody sheet for this purpose.

6. The election superintendent shall notify the Secretary of State of any instances of unaccounted for DRE units, optical scanner devices, voter access cards, supervisor cards, memory cards, DRE unit keys, voting system software, and encoders at the completion of certification by delivering such notification to the Secretary of State when the certified election results are delivered to the Secretary of State.

### (3) Preparation for Elections.

#### (a) Ballots.

1. The election superintendent shall cause the memory cards (PCMCIA cards) to be used in each precinct to be prepared in accordance with law and applicable rules and regulations.

2. Each memory card (PCMCIA card) shall be appropriately labeled with the name of the precinct for which it is programmed for use. The election superintendent shall ensure that each memory card (PCMCIA card) shall be programmed and tested to ensure that the proper ballot style or styles for the precinct for which it is programmed are included on the card and no other ballot styles.

3. Each ballot and ballot style shall be proofread by the election superintendent or a person or persons under the direction of the superintendent to ensure that the ballot contains the proper offices, candidates, and questions to be submitted to the voters, that the offices and names are spelled and designated correctly, that political party or body affiliations and incumbency of candidates are correctly designated where applicable, and that the questions are presented in accordance with law and this rule and that the correct offices and questions are presented on each ballot style.

4. For each office on the ballot, the ballot shall state the name of the office; the post, position, or person presently holding the office if necessary to identify the specific office subject to election; the number of candidates for which the voter may vote for such office; the names of the candidates; the residence address of the candidates if there has been a determination that the names are sufficiently similar to so require such information under O.C.G.A. § 21-2-379.5; in partisan elections, the name of the political party or body that nominated the candidate or a designation of the candidate as an independent candidate; and the designation of the incumbency of a candidate seeking reelection to the office which the candidate then holds.

5. The offices, candidates, and questions shall be listed on the ballot in the order specified in O.C.G.A. §§ 21-2-379.4 and 21-2-379.5.

6. The ballot shall be displayed in the following fonts:

- (i) The words "Official Ballot" shall be displayed in 16 point Arial Bold.
- (ii) All text beneath the words "Official Ballot" which designate the county or municipality conducting the election, precinct, type of election, and date of the election shall be displayed in 12 point Arial Bold.
- (iii) The words "I understand that the offer or acceptance of money or any other object of value to vote for any particular candidate, list of candidates, issue, or list of issues included in this election constitutes an act of voter fraud and is a felony under Georgia law." shall be displayed in 8 point Arial Narrow Italicized.
- (iv) The name of the office shall be displayed in 12 point Arial Bold.
- (v) Information on the designation of the office ("To succeed \_\_\_\_\_") and the number of candidates for which an elector may vote for each office shall be displayed in 10 point Arial.
- (vi) The names of candidates shall be displayed in 10 point Arial Narrow Bold in all capital letters.
- (vii) Incumbency designations shall be displayed in 8 point Arial Narrow Bold.
- (viii) Political party or body and independent designations shall be displayed in 9 point Arial Narrow.
- (ix) The text of questions to be submitted to the electors shall be displayed in 10 point Arial Narrow Bold.
- (x) The choices for voting on a question (i.e., "YES" and "NO") shall be displayed in 10 point Arial Narrow Bold.

7. The ballot shall be displayed in the following colors:

- (i) All text, designations, and names shall be displayed in black letters.
- (ii) The background colors shall be as follows:
  - (I) The overall page shall be blue (Hue: 180, Sat: 240, Lum: 60, Red: 64, Green: 0, Blue: 128).
  - (II) The general election header shall be yellow (Hue: 40, Sat: 240, Lum: 120, Red: 255, Green: 255, Blue: 0).
  - (III) The Democratic Party Primary header shall be white (Hue: 160, Sat: 0, Lum: 240, Red: 255, Green: 255, Blue: 255).
  - (IV) The Republican Party Primary header shall be light blue (Hue: 120, Sat: 240, Lum: 120, Red: 0, Green: 255, Blue: 255).

(V) The nonpartisan election header shall be light green (Hue: 60, Sat: 240, Lum: 120, Red: 128, Green: 255, Blue: 0).

(VI) The box containing the contest or question to be voted upon shall be burnt orange (Hue: 20, Sat: 240, Lum: 120, Red: 255, Green: 128, Blue: 0).

(VII) The box containing the names of the candidates or the answers or responses to a referendum question for which an elector may vote shall be white (Hue: 160, Sat: 0, Lum: 240, Red: 255, Green: 255, Blue: 255).

8. In addition to the displayed ballot, the election superintendent shall cause an audio ballot to be prepared for use with the VWD devices. The superintendent shall ensure that all matters are recorded correctly and that the names of the candidates are pronounced correctly in the audio recordings. The election superintendent shall also ensure that no candidate's name; political party, political body, or independent designation; incumbency; or other such information nor any referendum question or answer or response thereto is emphasized, stressed, or otherwise inflected in any manner to distinguish a particular candidate, party or body, question, answer or response to a referendum question either negatively or positively or to suggest whether to vote for or against such candidates or questions in such audio recordings. The election superintendent shall also ensure that the audio recordings are presented at a rate not to exceed 130 words per minute or 2.2 words per second on average and at a volume which shall not be less than 75 decibels nor more than 85 decibels.

(b) Setup and Testing.

1. Primaries and Elections.

(i) On or before the third day preceding a primary or election, including special primaries, special elections, and referendum elections, the election superintendent shall commence the preparation and testing of the DRE units for use on Election Day. On or before the third day preceding the early voting period, the election superintendent shall commence the preparation and testing of the DRE units for use during the early voting period. At least five days prior to the commencement of such preparation and testing, the election superintendent shall publish a notice in the legal organ of the county stating the date, time, and place or places where preparation and testing of the DRE units for use in the primary or election will commence and stating that such preparation shall continue from day to day until such preparation is complete and that such preparation and testing shall be open to the public and that members of the public are entitled to be present during the preparation and testing of the DRE units. The election superintendent shall cause such preparation and testing to begin on such date and time and at such place or places. Such preparation and testing shall be open to members of the public to observe; however, such members of the public shall not in any manner interfere with the preparation and testing of the DRE units. Any person found to be interfering with the preparation and testing process may be asked to leave the testing process and may be cited for interfering with an election official while in performance of election duties. Any questions and/or complaints from the general public regarding the preparation and testing process must be directed to the election superintendent and not to the individual personnel conducting the preparation and testing process. The election superintendent may make such reasonable rules and regulations concerning the conduct of such



members of the public observing such preparation and testing as the election superintendent deems necessary and appropriate; provided, however, that such rules and regulations shall not prevent members of the public from fairly observing the preparation and testing of the DRE units.

In addition to any reasonable rules and regulations that the election superintendent may create for the public to observe the preparation and testing process, the election superintendent or designee thereof, shall:

During the first day of preparation and testing, at the beginning of the day or for the first hour of public observation be available to explain the preparation and testing process and to respond to questions and provide answers regarding the purpose and the process of preparation and testing;

(b) maintain a presence at all times during the preparation and testing process if an outside source is conducting the preparation and testing process;

(c) administer an oath of custodian prior to beginning the preparation and testing process to any county personnel (except permanent state, county, or municipal election staff) appointed by the election superintendent to conduct the preparation and testing process;

(d) establish an area reasonable in proximity for the public to observe the preparation and testing process. Such area shall provide reasonable accommodations for the public insofar as space permits, but shall not be so established as to deny the general public the opportunity to view the process; however the area should not be of such a nature so as to allow the preparation and testing process to be interfered with by the general public;

(e) allow only election office personnel or individuals assigned to conduct the preparation and testing to enter the testing area during the preparation and testing process;

(f) prohibit any preparation and testing reports created for recording the seal numbers and/or serial numbers of the DRE unit from being photocopied for public disclosure;

(g) prohibit the security seals and serial numbers of the DRE units from being photographed or copied for public disclosure;

(h) prohibit photographic and audio equipment, of any kind, including cell phone cameras from being used to record the serial numbers of the DRE units or to record the security seal numbers used to secure the DRE units, provided that this rule shall not prohibit the news media from reporting on the preparation and testing process, so long as seal numbers and serial numbers on the DRE units are not recorded or displayed in any manner;

(ii) During the public preparation and testing of the DRE units to be used in a particular primary or election, the election superintendent shall cause each DRE unit to be programmed with the memory card (PCMCIA card) for the precinct at which the DRE unit will be used. After placing the memory card (PCMCIA card) in the DRE unit, the DRE unit shall have such internal diagnostic tests performed as shall be directed by the Secretary of State or the election superintendent. Following the completion of the diagnostic tests, the DRE unit shall have an internal logic and accuracy test performed using the memory card (PCMCIA card) for the

primary or election for which the unit is being prepared. If the DRE unit fails any of the diagnostic or logic and accuracy tests, the unit shall not be used in a primary or election until such unit is repaired and inspected and found capable of proper functioning and passes the diagnostic and logic and accuracy tests. Upon the successful completion of the logic and accuracy test, the DRE unit shall be cleared of any accumulated vote totals for the primary or election and a zero tape run to verify that the vote registers in the unit are set at zero. After verifying that the vote registers are set at zero, the tape shall be attached to the custodian's certification form to document the logic and accuracy testing and the unit shall be configured for voting. The unit shall then be securely closed in its case and a numbered seal placed on its case such that the case may not be opened until and unless the seal is broken.

(iii) The election superintendent or the custodian responsible for preparing the DRE units, if one has been appointed by the election superintendent in accordance with O.C.G.A. § 21-2-379.6(b), shall make a certification stating for each DRE unit the serial number of the DRE unit, the number on the system counter of the DRE unit, the number on the seal with which the DRE unit is sealed, and that the election counter and each vote register on the unit was set at zero. The case shall be appropriately labeled with the name of the precinct in which the unit is to be used and the serial number of the DRE unit. The custodian's certification shall be retained with the records for such primary runoff or election runoff and shall be stored with such records with the clerk of superior court or municipal clerk, as appropriate, for the same period of time as required by law for other election records.

(iv) After being prepared for voting, each DRE unit shall be safely and securely stored until such time as the unit is transported to the precinct in which such unit is to be used.

## 2. Primary Runoffs and Election Runoffs.

(i) On or before the third day preceding a primary runoff or election runoff, including special primary runoffs and special election runoffs, the election superintendent shall commence the preparation and testing of the DRE units for use in the primary runoff or election runoff. At least ~~five days~~ 24 hours prior to the commencement of such preparation and testing, the election superintendent shall publish a notice in the legal organ of the county stating the date, time, and place or places where preparation and testing of the DRE units for use in the runoff will commence and stating that such preparation shall continue from day to day until such preparation is complete and that such preparation and testing shall be open to the public and that members of the public are entitled to be present during the preparation and testing of the DRE units. The election superintendent shall cause such preparation and testing to begin on such date and time and at such place or places. Such preparation and testing shall be open to members of the public to observe; however, such members of the public shall not in any manner interfere with the preparation and testing of the DRE units. Any person found to be interfering with the preparation and testing process may be asked to leave the preparation and testing process and may be cited for interfering with an election official while in performance of election duties. Any questions and/or complaints from the general public regarding the preparation and testing process must be directed to the election superintendent and not to the individual personnel conducting the preparation and testing process. The election superintendent may make such reasonable rules and regulations concerning the conduct of such members of the public observing such preparation and testing as the election superintendent deems necessary and appropriate;

provided, however, that such rules and regulations shall not prevent members of the public from fairly observing the preparation and testing of the DRE units.

In addition to any reasonable rules and regulations that the election superintendent may create for the public to observe the preparation and testing process, the election superintendent or designee thereof, shall:

During the first day of preparation and testing, at the beginning of the day or for the first hour of public observation be available to explain the preparation and testing process and to respond to questions and provide answers regarding the purpose and the process of preparation and testing;

(b) maintain a presence at all times during the preparation and testing process if an outside source is conducting the preparation and testing process;

(c) administer an oath of custodian prior to beginning the preparation and testing process to any county personnel (except permanent state, county, or municipal election staff) appointed by the election superintendent to conduct the preparation and testing process;

(d) establish an area reasonable in proximity for the public to observe the preparation and testing process. Such area shall provide reasonable accommodations for the public insofar as space permits, but shall not be so established as to deny the general public the opportunity to view the process; however the area should not be of such a nature so as to allow the preparation and testing process to be interfered with by the general public;

(e) allow only election office personnel or individuals assigned to conduct the preparation and testing to enter the preparation and testing area during the preparation and testing process;

(f) prohibit any preparation and testing reports created for recording the seal numbers and/or serial numbers of the DRE units from being photocopied for public disclosure;

(g) prohibit the security seals and serial numbers from being photographed or copied for public disclosure;

(h) prohibit photographic and audio equipment, of any kind, including cell phone cameras from being used to record the serial numbers of the DRE units or to record the security seal numbers used to secure the DRE units, provided that this rule shall not prohibit the news media from reporting on the preparation and testing process, so long as seal numbers and serial numbers on the voting units are not recorded or displayed in any manner;

(ii) During the public preparation and testing of the DRE units to be used in a particular primary runoff or election runoff, the election superintendent shall cause each DRE unit to be programmed with the memory card (PCMCIA card) for the precinct at which the DRE unit will be used. After placing the memory card (PCMCIA card) in the DRE unit, the DRE unit shall have such internal diagnostic tests performed as shall be directed by the Secretary of State and the election superintendent. Following the completion of the diagnostic tests, the superintendent shall cause a number of random DRE units as provided by law to undergo an internal logic and accuracy test using the memory card (PCMCIA card) for the primary runoff or election runoff for which the unit is being prepared. If a DRE unit fails any of the diagnostic or logic and

accuracy tests, the unit shall not be used in any primary, election, or runoff until such unit is repaired and inspected and found capable of proper functioning and passes the diagnostic and logic and accuracy tests. Upon the successful completion of the logic and accuracy test, the DRE unit shall be cleared of any accumulated test vote totals for the primary runoff or election runoff and a zero tape run to verify that the vote registers in the unit are set at zero. After verifying that the vote registers are set at zero, the tape shall be attached to the custodian's certification form to document the logic and accuracy testing and the unit shall be configured for voting. The unit shall then be securely closed in its case and a numbered seal placed on its case such that the case may not be opened until and unless the seal is broken. The custodian's certification shall be retained with the records for such primary runoff or election runoff and shall be stored with such records with the clerk of superior court or municipal clerk, as appropriate, for the same period of time as required by law for other election records.

(iii) All memory cards to be used in the runoff shall be tested.

(iv) The election superintendent or the custodian responsible for preparing the DRE units, if one has been appointed by the election superintendent in accordance with O.C.G.A. § 21-2-379.6(b), shall make a certification stating for each DRE unit the serial number of the DRE unit, the number on the system counter of the DRE unit, the number on the seal with which the DRE unit is sealed, and that the election counter and each vote register on the unit was set at zero. The case shall be appropriately labeled with the name of the precinct in which the unit is to be used and the serial number of the DRE unit.

(v) After being prepared for voting, each sealed DRE unit shall be safely and securely stored until such time as the unit is transported to the precinct in which such unit is to be used.

(c) Transport to Polls.

1. The election superintendent shall take all necessary measures to ensure that the DRE units are safely and securely transported to the polling places.

2. The election superintendent shall cause the DRE units for each precinct to be delivered to the polling place for the precinct at least one hour before the time for the opening of the polls.

3. If the DRE units are stored at a polling place after being configured for voting and sealed, the election superintendent shall ensure that the units are stored in a secure area with appropriate climate control.

4. The election superintendent shall deliver the supervisor's card, a sufficient quantity of voter access cards, and the key to the DRE units to the chief manager not later than one hour before the time set for the opening of the polls and shall obtain a receipt for the cards and key. The supervisor's card shall be sealed in an envelope and shall not be opened until the polls are closed unless all of the ballot encoding devices at the precinct fail and it is necessary to use the supervisor's card to configure a DRE unit to encode the voter access cards at the precinct. In such cases, the use of the supervisor's card before the close of the polls shall be documented in the records for the election at that precinct. In addition, the superintendent shall deliver on the appropriate form a listing containing the serial number of each DRE unit, and the number of the seal placed on each such unit.

(d) Before the Opening of the Polls.

1. The poll officers shall set up the DRE units for voting prior to the opening of the polls. The set up shall be performed in public and the public may view the set up subject to such reasonable rules and regulations as the election superintendent may deem appropriate to protect the security of the DRE units and to prevent interference with the duties of the poll officers.
2. The poll officers shall verify that the seal for each unit is intact and that there is no evidence or indication of any tampering with the seal or the unit. The poll officers shall verify that the number of the seal matches the number of the seal recorded for that unit when such unit was prepared by the election superintendent for the primary, election, or runoff. If a seal number does not match or if there is any evidence or indication of tampering with the seal or unit, the election superintendent shall be immediately notified and such unit shall not be used until such matters are resolved by agreement of the election superintendent and the poll manager.
3. Each DRE unit shall be set up and its power turned on and the privacy screens for the unit erected and its screen lifted into place.
4. The poll manager shall run a zero tape on each DRE unit prior to the opening of the polls. The poll manager, along with the other assistant managers, shall, without removing the tape from the unit, verify that all vote registers shown on the zero tape are set to zero and that there are no votes showing on the unit and shall sign the tape in the space provided. If the zero tape does not show that all vote registers are set to zero and that there are votes on the unit, the election superintendent shall be immediately notified and such unit shall not be used until the unit is cleared and the matter is resolved by agreement of the election superintendent and the poll manager.
5. After verifying and signing the zero tape, the poll manager shall securely lock the tape compartment leaving the zero tape in place on the unit and shall configure the unit for voting. The poll manager shall verify that the election counter on each DRE unit is set at zero. If the election counter is not set to zero, the election superintendent shall be immediately notified and such unit shall not be used until the election counter is set to zero and the matter is resolved by agreement of the election superintendent and the poll manager.
6. The poll officers shall verify that there is no unauthorized matter affixed to the DRE units or present in the cases or voting booths.
7. The poll officers shall affix a card of instructions for voting within each voting booth and shall place at least two printed sample ballots and at least two voting instructions posters approved or provided by the Secretary of State outside the enclosed space at the polling place for the information of the voters. Prior to voters entering the enclosed space, the poll officers may also distribute to such voters a card of instructions for voting on the DRE unit that has been approved or provided by the Secretary of State.

(4) Conducting Elections.

- (a) As each voter presents himself or herself at the polling place for the purpose of voting during the time during which the polls are open for voting, each voter shall be offered instruction by a

poll officer in the method of voting on the DRE units. In providing such instruction, the poll officers shall not in any manner request, suggest, or seek to persuade or induce any voter to vote any particular ticket or for any particular candidate or for or against any particular question.

(b) When a person presents himself or herself at the polling place for the purpose of voting during the time during which the polls are open for voting, the person shall complete a voter's certificate and submit it to the poll officers. The poll officers shall then verify the identity of the person and that the person is a registered voter of the precinct and, if so, shall approve the voter's certificate and enter an appropriate designation on the electors list for the precinct reflecting that the voter has voted in the primary, election, or runoff being conducted. The voter's name shall then be entered on the appropriate numbered list of voters. The poll manager or the poll officer who has been designated by the poll manager to issue voter access cards shall then use the ballot encoder device to encode and issue the voter an appropriate voter access card authorizing the voter to vote the correct ballot style in the DRE units at the polling place. Upon a DRE unit being available, the voter shall then enter the enclosed space in the polling place and insert the voter access card into an available DRE unit and proceed to vote his or her choices. Upon completion of voting, the voter shall press the "cast ballot" button, remove the voter access card from the DRE unit, and return the card to a poll officer.

Then the voter shall exit the enclosed area of the polling place.

(c) At least once each hour during the time while the polls are open, the poll officers shall examine the face of each DRE unit and each voting booth to verify and ensure that no unauthorized matter has been affixed to the unit or placed in the voting booth and that the unit has not been tampered with in any manner.

(d) The polling place shall be so arranged in such a manner as to ensure the privacy of the elector while voting on a DRE unit, to allow monitoring of each DRE unit by the poll officers while the polls are open, and to permit the public to observe the voting without affecting the privacy of the electors as they vote. In addition, at least one DRE unit shall be configured for voting by physically disabled voters in wheelchairs and provisions shall be made to ensure the privacy of such electors while voting.

(e) It shall be permissible under O.C.G.A. § 21-2-410 and shall not constitute assistance in voting under O.C.G.A. § 21-2-409 for poll officers to assist a voter in inserting the voter card in the DRE unit and in explaining the operation of the unit to the voter; provided that the poll officer withdraws from the voting booth prior to the voter pressing the "start" button or beginning voting. The poll officers shall not in any manner request, suggest, or seek to persuade or induce any voter to vote any particular ticket or for any particular candidate or for or against any particular question.

(f) Voters utilizing a VWD device to vote on the DRE units without the assistance of any other individual shall not be considered as receiving assistance in voting and shall not be required to complete the forms required for receiving assistance in voting pursuant to O.C.G.A. § 21-2-409.

(g) The poll officers shall ensure that voters return the voter access cards to the poll officials prior to leaving the enclosed space in the polling place. The poll officers shall arrange and

configure the polling place and provide staffing at such places at the polling place to ensure that a voter will not leave the polling place with a voter access card.

(h) If a voter leaves a DRE unit prior to completing the process of voting and exits the polling place and does not return to the unit to complete the voting process, the poll officers shall cancel or void the vote on the DRE unit without attempting in any manner to see how the voter voted and shall make a notation of the incident in the election records for the precinct.

(i) A voter may request information from the poll officers concerning how to vote on the DRE unit at any time during the voting process; provided, however, that the poll officers shall not observe or view the voter's ballot on the DRE unit or make any attempt to see how the voter has voted. However, once the voter casts his or her ballot, even if the ballot is blank with no votes cast, such voter shall be deemed to have voted and may not thereafter vote again in the same primary, election, or runoff on that election day.

(j) If a voter discovers that the ballot presented on the DRE unit is not correct or is not the ballot that the voter desired to vote, the voter shall immediately notify a poll officer. The poll officer shall cancel or void the ballot on the DRE unit without attempting in any manner to see how the voter has voted and shall then take the necessary steps to provide the voter with the correct ballot by encoding and issuing a new voter access card to the voter and making any necessary corrections to the voter's certificate of the voter, the electors list, and the numbered list of voters. If the voter presses the "cast ballot" button prior to notifying the poll officials of the error in the ballot, the voter shall be deemed to have voted and shall not be permitted to cast another ballot in the same primary, election, or runoff on that election day.

(k) If a DRE unit malfunctions during the day of a primary, election, or runoff, the poll manager shall immediately notify the election superintendent and shall not allow any voter to use the unit until and unless the malfunction is corrected. The election superintendent shall immediately arrange for the repair of the DRE unit or shall provide a replacement DRE unit as soon as practicable to replace the malfunctioning unit. A replacement DRE unit shall not be used as a replacement unit unless it has been appropriately tested prior to its use.

#### (5) Tabulating Results.

##### (a) After the Polls Close.

1. Immediately after the polls close and the last voter has voted, the poll manager shall open the envelope containing the supervisor's card and use the supervisor's card to close each of the DRE units in the precinct against further voting.

2. The poll officers shall then compare the total number of persons voting as shown by the number of voters certificates, the number of persons marked on the electors list, the number of voters on the numbered list of voters, and the number of persons shown as voting on the election counters of the DRE units. If these numbers do not equal one another, the poll officers shall determine the reason for the inconsistency; correct the inconsistency, if possible; and fully document the inconsistency or problem along with any corrective measures taken before going further.

3. After completing the comparison of the total number of persons voting as shown by the electors list, the voter's certificates, the numbered list of voters, and the election counters of the DRE units, the poll manager shall cause each DRE unit to print a minimum of two tapes showing the vote totals as cast on that DRE unit. The poll manager and at least one assistant manager shall also compare the number of ballots voted as shown on the tape with the number of ballots voted as shown on the election counter of the DRE unit. If these numbers are not identical, the poll manager shall document the discrepancy. The poll manager and the assistant managers shall sign each of the tapes or shall write on the tapes the reason why the poll manager or the assistant managers will not sign the tapes.

4. If directed by the election superintendent, the poll manager shall designate one of the DRE units as the accumulator unit to accumulate the votes for the precinct. After printing all of the tapes for the individual DRE units, the poll manager shall accumulate the totals for the accumulator DRE unit and remove the memory card (PCMCIA card) from the accumulator DRE unit. The poll manager shall then collect and retain the two signed tapes (one of which shall include the zero tape) with the memory card (PCMCIA card) from each DRE unit and shall place the memory card (PCMCIA card) in the appropriate envelope provided by the election superintendent. The poll manager shall then begin removing the memory cards (PCMCIA cards) from the remaining DRE units one by one and inserting the memory cards (PCMCIA cards) into the accumulator DRE unit and accumulating the vote totals from the other DRE units into the accumulator DRE unit. Upon the vote totals for each memory card (PCMCIA card) being entered into the accumulator DRE unit, the memory card (PCMCIA card) shall be removed from the accumulator DRE unit and two signed tapes (one of which shall contain the zero tape) shall be collected and retained with the card. Each memory card (PCMCIA card) shall then be placed into the appropriate envelope provided by the election superintendent. After the results from the last memory card (PCMCIA card) are entered into the accumulator DRE unit and the last memory card (PCMCIA card) has been placed in the envelope, the envelope containing the memory cards (PCMCIA cards) and tapes shall be sealed and secured by the poll manager and at least one assistant manager in an envelope container provided by the election superintendent which shall be sealed and initialed by the poll manager and the two assistant managers such that the envelope cannot be opened without breaking such seal.

5. After all of the results have been entered into the accumulator DRE unit, the poll manager shall cause a minimum of three tapes to be printed out by the DRE unit showing the total votes cast for the precinct. The poll manager and the assistant managers shall sign each of the tapes or shall write on the tapes the reason why the poll manager or the assistant managers will not sign the tapes. One tape shall be posted on the door of the polling place for the information of the public along with a copy of the provisional ballot recap sheet for the precinct. The other tapes shall be placed into the envelope provided by the election superintendent for that purpose and sealed and initialed by the poll manager and at least one assistant manager.

6. If the election superintendent does not direct that the results of the precinct be accumulated, then the poll manager shall cause each DRE unit to print an additional results tape which shall be verified and signed in the same manner as provided in paragraph 3 of this subparagraph. Such additional results tape for each DRE unit shall be posted on the door of the polling place for the information of the public along with a copy of the provisional ballot recap sheet for the precinct. The memory card (PCMCIA card) and two signed tapes from each DRE unit shall be placed in



the appropriate envelope supplied by the election superintendent which shall be sealed and initialed by the poll manager and at least one assistant manager such that the envelope cannot be opened without breaking such seal.

7. After completing the printing of the results, the DRE units shall be turned off and secured in their cases and resealed. The number of each seal shall be entered on the appropriate form along with the serial number of the DRE unit case in which it is inserted. The DRE units shall then be placed in a secure area with appropriate climate control.

8. The memory cards (PCMCIA cards), results tapes, voter access cards, supervisor's card, ballot encoder devices, electors lists, numbered lists of voters, voter certificates, recap sheets, and other such paperwork shall be transported to the office of the election superintendent by the poll manager and at least one other poll officer. The election superintendent or his or her designee shall receive the materials and shall issue a receipt to the poll manager for the materials.

(b) Electronic Transmission of Precinct Results to Central Office.

1. After accumulating all of the vote totals for the precinct, if directed to do so by the election superintendent, the poll manager shall connect the accumulator DRE unit to an analog telephone line and electronically transmit the accumulated vote totals for the precinct to the central office. The DRE unit shall not be connected to a telephone line during the time while the polls are open.

2. Vote totals reported electronically from the precinct to the central office shall be unofficial and shall not be used in preparing the official returns for the primary, election, or runoff.

(c) Consolidation of Results.

1. All persons involved with the tabulation and consolidation of the election results and who will operate the computer programs or handle the memory cards (PCMCIA cards) shall be sworn before entering into their duties.

2. No persons except those persons who are employed by the election superintendent and who have been duly sworn shall perform any duties in connection with the tabulation or consolidation of election results. No persons who are not employed by the election superintendent and have been duly sworn shall touch or be in contact with any container, returns, tapes, device, memory card (PCMCIA card), or any other such election materials. Only persons who are employed by the election superintendent and have been duly sworn shall be in the immediate area of the tabulating center designated by the superintendent for the officers to conduct the tabulation and consolidation of the election results.

3. The tabulation and consolidation shall be performed in public. However, the election superintendent may make reasonable rules and regulations for conduct at the tabulating center to ensure the security of the results and the returns and to avoid interference with the tabulating center personnel.

4. Upon the delivery of the memory cards (PCMCIA cards) from each precinct, the election superintendent or his or her designee shall provide a receipt to the poll manager for the memory cards (PCMCIA cards) and precinct election materials.

5. Upon receiving the memory cards (PCMCIA cards), the election superintendent shall verify the signatures on the sealed envelopes and verify that the seals are intact, that the envelopes have not been opened, and that there is no evidence of tampering with the envelopes or their contents.

6. In the case of elections for county, state, and federal office, after verifying that the envelopes are properly sealed and have not been opened or tampered with, the election superintendent shall break the seal and open each envelope and remove the memory card (PCMCIA card) and results tapes. The election superintendent or his or her designee shall then insert the memory card (PCMCIA card) into the election management system computer and transfer the vote totals from the memory card (PCMCIA card) into the election management system for official tabulation and consolidation.

7. After transferring all of the vote totals from the memory cards (PCMCIA cards) to the election management system and consolidating such totals with the totals from the absentee ballot system and such votes from any provisional ballots which have been found by the registrars to be authorized pursuant to O.C.G.A. § 21-2-419, the election superintendent shall prepare the official consolidated returns for the primary, election, or runoff.

8. The election superintendent shall not list and certify in the official consolidated returns for an election any results for write in candidates who were not properly qualified under O.C.G.A. § 21-2-133.

9. In the case of primaries, elections, and runoffs for county, state, and federal office, the county election superintendent shall transmit to the Secretary of State the election returns by precinct for the county in electronic format or by electronic means, as may be specified by the Secretary of State, within seven days following a primary, election, or runoff.

(d) Electronic Transmission of Precinct Results to Central Office. The election superintendent shall transmit to the Secretary of State unofficial election results for all races for state offices in any primary, election, or runoff as soon as possible after the closing of the polls for such primary, election, or runoff. Such results shall be transmitted in a format prescribed by the Secretary of State. At a minimum, the results shall be transmitted upon one third of the precincts reporting results, upon two thirds of the precincts reporting results, and upon all precincts reporting results, including absentee ballots within all precincts. Except upon notice to and consultation with the Secretary of State, no election superintendent shall conclude the tabulation of votes on election night in any primary, election, or runoff in which there are contested races for federal and state offices until and unless all such unofficial results, including absentee ballots, have been transmitted to the Secretary of State.

(6) Storage of Returns.

(a) After tabulating and consolidating the results, the election superintendent shall prepare a CD-ROM which shall contain a copy of the information contained on each memory card (PCMCIA card) which shall include all ballot images as well as vote totals and a copy of the consolidated returns from the election management system.

(b) The CD-ROM shall be placed in a sealed envelope and shall become a part of the election materials which shall be deposited with the clerk of superior court or the municipal clerk, as

appropriate, in accordance with O.C.G.A. § 21-2-500. In addition, the signed results tape from each DRE unit containing the signed zero tape shall also be deposited with the clerk of superior court.

(c) The memory cards (PCMCIA cards) shall be sealed in an appropriate container and securely maintained by the election superintendent until the period for requesting a recount of the primary, election, or run off results has expired. The election superintendent and at least one other sworn individual in the tabulating center shall seal the container and sign the seal such that the container cannot be opened without destroying or damaging the seal. Upon the expiration of the period for requesting a recount, the election superintendent may use the memory cards (PCMCIA cards) for programming DRE units for the next primary, election, or runoff.

(d) The election results, ballot styles, ballot images, and other information for each election stored in the internal memory storage of each DRE unit shall be maintained for a minimum of one month following each election after which time the results may be erased provided that there are no election contests pending concerning such election.

#### (7) Recounts and Recanvass.

(a) The election superintendent shall, either of his or her own motion, or upon petition of any candidate or political party or three electors of the county or municipality, as may be the case, order a recanvass of all the memory cards (PCMCIA cards) for a particular precinct or precincts for one or more offices in which it shall appear that a discrepancy or error, although not apparent on the face of the returns, has been made. Such recanvass may be held at any time prior to the certification of the consolidated returns by the election superintendent and shall be conducted under the direction of the election superintendent. Before making such recanvass, the election superintendent shall give notice in writing to each candidate and to the county chairperson of each party or body affected by the recanvass. Each such candidate may be present in person or by representative and each such political party or body may send two representatives to be present at such recanvass. If upon such recanvass, it shall appear that the original vote count was incorrect, such returns and all papers being prepared by the election superintendent shall be corrected accordingly.

(b) The election superintendent shall conduct the recanvass by breaking the seal, if the ballots cards have been sealed, on the container containing the memory cards (PCMCIA cards) and removing those memory cards (PCMCIA cards) for the precinct or precincts for which the recanvass is being conducted. The election superintendent shall then cause the vote totals on each of the memory cards (PCMCIA cards) to be transferred to either an accumulator DRE unit or to the election management system computer. After all of the vote totals from the memory cards (PCMCIA cards) for the precinct or precincts for which the recanvass is being conducted have been entered, the election superintendent shall cause a printout to be made of the results and shall compare the results to the results previously obtained. If an error is found, the election superintendent shall correct the error in the returns accordingly.

(c) Recounts pursuant to O.C.G.A. § 21-2-495(c) shall be conducted in the same manner as other recounts under these rules.

(8) Maintenance of Equipment.

(a) Each county shall be responsible for maintaining the DRE units, computers, and software provided to such county by the Secretary of State or purchased by such county and shall either purchase a maintenance agreement for such equipment and software or shall self insure such equipment and software.

(b) In the event of any malfunction or problem with DRE units, the county election superintendent shall document the problem and its resolution and shall provide such information to the Secretary of State. The documentation shall include a detailed description of the malfunction or problem, the steps taken to correct the malfunction or problem, and the cause of such malfunction or problem if a cause can be determined.

(9) Use of Equipment by Municipalities. The county election superintendent is authorized to permit any municipality within the county to conduct its election with the DRE equipment through a written intergovernmental agreement between the county and the municipality; provided that the municipality agrees to maintain and operate the equipment in accordance with law, these rules and regulations, and the manufacturer's guidelines and specifications and provided further that the municipality trains all of its election personnel and poll workers in the proper operation and conduct of elections utilizing such equipment through a training program conducted by or approved by the Secretary of State.

(10) Sample Ballots. DRE units that are used for demonstration and education purposes shall not utilize or be programmed with the official ballot to be used in the primary or election for demonstrational or educational purposes. The units shall utilize or be programmed with a ballot containing the names of fictitious or historical persons whose names do not appear on the official ballot for such primary or election.

Authority O.C.G.A. Sec. 21-2-31.